

JO ANN HOWARD AND ASSOCIATES, )  
P.C., ET AL., )  
 )  
Plaintiffs, )  
 )  
vs. ) Case No.: 4:09-cv-1252 ERW  
 )  
J. DOUGLAS CASSITY, ET AL., )  
 )  
Defendants. )

COMES NOW Defendant Brown Smith Wallace, LLC (hereinafter “BSW”), pursuant to Federal Rule of Evidence 702, by and through its attorneys, and for its Motion to Strike Plaintiffs’ Expert Shahriar Arfa-Zanganeh’s Opinions on Causation and Damages, states as follows:

1. BSW anticipates that at trial, Plaintiff intends to will offer the expert testimony of Mr. Arfa-Zanganeh, who would testify that: (1) BSW breached its standard of care in performing the 2004 audits of Lincoln and Memorial and (2) this breach caused damages to Plaintiffs in the amount of \$141,122,584.
2. Mr. Arfa-Zanganeh's opinions on causation and damages and his calculation of damages should be stricken from his Report and he should be barred from testifying on the same.
3. Mr. Arfa-Zanganeh lacks the requisite professional qualifications to render all of the opinions related to causation and damages contained in his Expert Report. Specifically,

he seeks to opine on matters involving insurance regulation, and he is not a qualified expert on insurance regulation.

4. Mr. Arfa-Zanganeh based his opinions on causation and damages and his calculation of damages on speculation and insufficient facts. Specifically, Mr. Arfa-Zanganeh speculated about what the Texas Department of Insurance regulators would have done and when had different information been disclosed in the 2004 audits of Lincoln and Memorial. Mr. Arfa-Zanganeh's opinions are not based on sufficient facts.
5. As a result of the narrow terms of his engagement, Mr. Arfa-Zanganeh's method of calculating damages is fundamentally flawed because: (1) he only calculated a "gross" loss to the Companies for the policies issued after January 1, 2006, not actual ("net") damages; (2) he failed to account for over a billion dollar loss to Lincoln and Memorial in the timeframe for which he calculated damages and (3) he failed to consider other alternative causes for the alleged \$141,122,584 in damages to Plaintiffs.
6. Because Mr. Arfa-Zanganeh's opinions on causation and damages and his calculation of damages are speculative and fundamentally flawed, they are unreliable.
7. Plaintiff and Mr. Arfa-Zanganeh should not be permitted to "taint" the jury with his "gross" loss and fundamentally flawed calculation of damages and opinions on causation and damages.
8. In support of this Motion, BSW incorporates by reference its memorandum of law, filed contemporaneously with this Motion.
9. BSW requests oral argument on its Motion.

WHEREFORE Defendant Brown Smith Wallace, LLC prays that this Honorable Court order that all expert testimony, either written or oral, submitted by Shahriar Arfa-Zanganeh relating to causation and damages be excluded from these proceedings.

/s/ Steven J. Hughes

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I hereby certify that a copy of the foregoing filed electronically with the Clerk of the Court this 2<sup>nd</sup> day of October, 2014 to be served by operation of the Court's electronic filing system upon the following:

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